

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DERAY SMITH,

Petitioner,

Civil Action No. 09-CV-14876

v.

HON. BERNARD A. FRIEDMAN

RANDALL HAAS,

Respondent.

\_\_\_\_\_ /

**ORDER TRANSFERRING MOTION FOR RELIEF FROM JUDGMENT  
TO THE COURT OF APPEALS**

On May 11, 2012, this Court dismissed petitioner's habeas application because it was filed outside the statute of limitations. The Court also declined to issue a certificate of appealability and denied petitioner leave to proceed on appeal *in forma pauperis*. The United States Court of Appeals for the Sixth Circuit subsequently denied petitioner's request for a certificate of appealability and dismissed the appeal. *See Smith v. Rapelje*, No. 12-1816 (6<sup>th</sup> Cir. Jan. 3, 2013). The Sixth Circuit later denied petitioner permission to file a second or successive habeas petition. *See In Re Smith*, No. 13-1715 (6<sup>th</sup> Cir. Nov. 22, 2013). On April 8, 2014, petitioner filed a motion seeking permission to file a successive habeas petition based on a retroactive change in the law. The Court has transferred that motion to the court of appeals pursuant to *In Re Sims*, 111 F. 3d 45, 47 (6<sup>th</sup> Cir. 1997). Petitioner has now filed a motion for relief from judgment [docket entry 65]. This motion must likewise be transferred to the court of appeals. Accordingly,

IT IS ORDERED that petitioner's motion for relief from judgment [docket entry 65] is hereby transferred to the United States Court of Appeals for the Sixth Circuit.

Dated: April 23, 2014  
Detroit, Michigan

\_\_\_\_\_/s/ Bernard A. Friedman\_\_\_\_\_  
BERNARD A. FRIEDMAN  
SENIOR UNITED STATES DISTRICT JUDGE